

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KPM ANALYTICS NORTH AMERICA)
CORPORATION,)
)
 Plaintiff,)
)
)
 v.)
)
)
BLUE SUN SCIENTIFIC, LLC, THE) Civil Action No. 4:21-CV-10572-MRG
INNOVATIVE TECHNOLOGIES GROUP)
& CO., LTD., ARNOLD EILERT,)
MICHELLE GAJEWSKI, ROBERT)
GAJEWSKI, RACHAEL GLENISTER,)
GREGORY ISRAELSON, IRVIN LUCAS,)
AND PHILIP OSSOWSKI)
)
 Defendants.)
)
)
)

**DECLARATION OF ERIC OLSON IN SUPPORT OF PLAINTIFF KPM ANALYTICS
NORTH AMERICA CORPORATION'S MOTIONS FOR PERMANENT INJUNCTION
AND CHAPTER 93A DAMAGES**

I, Eric Olson, do depose and state:

1. I am the Vice President of Engineering and Quality at Plaintiff KPM Analytics North America Corporation (“KPM”).
2. I make this declaration on my personal knowledge, except where otherwise noted, where I have collected information from others at KPM in the normal course of business.
3. I attended each day of the trial of the above captioned action and listened to each witness’s testimony.
4. In particular, I listened to Rachael Glenister’s testimony on Day 6 of the trial, when she testified to the following relating to Idahoan:

3 Q. I believe you were asked whether they were a KPM customer,
4 and you made a distinction that they were a KPM customer but
5 not a Unity customer. Can you explain to the jury what you
6 meant by that?

7 A. Sure. Idahoan for the benchtop NIR systems they were a
8 FOSS customer. That's what we were competing against here.
9 They owned one benchtop or I guess one photometer from Process
10 Sensors.

11 Q. And remind the jury, what is Process Sensors?

12 A. Process Sensors is one of the sister companies in the
13 family of brands at KPM. They manufacture filter-based
14 spectrometers.

15 Q. Did you ever sell anything on behalf of Process Sensors?

16 A. No, I did not.

17 Q. And if we recall from prior testimony, Idahoan ultimately
18 tested out a SpectraStar, right?

19 A. Yes, they did.

20 Q. And they ultimately, though, purchased a Phoenix, right?

21 A. Yes.

Day 6, Tr. 111:3-21.

5. After hearing Glenister's testimony relating to Idahoan, I requested documents concerning KPM's records relating to Idahoan. In response, I received the documents attached hereto as **Exhibit A**.

6. Page 1 of **Exhibit A** is a Sales Order listing Rachael Glenister as the Sales Representative who sent Idahoan a demo-Spectrastar analyzer that she testified to at trial for a 30-day trial. This Invoice to Idahoan is dated May 16, 2019. The description "Reflectance Monochromator (680-

2600 NM), Rotating Top Window Configuration” identifies that the unit is a SpectraStar, in other words, a Near Infrared Analyzer.

7. Page 2 of **Exhibit A** is a “Return Merchandise Authorization” from Idahoan later that same year, on December 9, 2019. In the comments section, it states that the machine was “Sent for Arnold’s use” which is a reference to Arnold Eilert.

8. In addition, attached hereto as **Exhibit B** is a copy of an email chain between Robert Gajewski, Rachael Glenister, and Kira Rasmussen of Idahoan from May 2019 concerning the demo unit that was delivered to Idahoan. This email chain was previously produced during discovery at KPM0094818-KPM0094820.

9. Attached hereto as **Exhibit C** is a copy of an email chain between Robert Gajewski, Rachael Glenister, and Kira Rasmussen of Idahoan from May 2019 also concerning the demo unit that was delivered to Idahoan. This email chain was previously produced during discovery at KPM0096740-KPM0096741.

10. Attached hereto as **Exhibit D** is a copy of an email from Rachael Glenister to Kira Rasmussen of Idahoan from October 2019 attaching a presentation to Idahoan that Glenister was involved in for the sale of a SpectraStar. This presentation was previously produced during discovery at KPM0018600-KPM0018632.

Signed under the pains and penalties of perjury, this 21st day of June 2023.

DocuSigned by:

3F0DBE80C33141F...
Eric Olson

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June 2021, a true and correct copy of the foregoing document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Paige K. Zacharakis

Paige K. Zacharakis